

REMARKS

These remarks are in response to the Office Action dated July 21, 2009, which has a shortened statutory period for response set to expire October 21, 2009. A three-month extension, to expire January 21, 2010, is requested in a petition filed herewith. A Request for Continued Examination is also filed herewith.

Specification

Regarding the specification, the Examiner writes:

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

At paragraph 4 of the Office Action, the Examiner also writes:

The Examiner maintains the objections to the specification since no specification amendments have been made or any arguments or comments acknowledging that the lengthy specification has been reviewed by Applicants' for possible errors.

Applicants respectfully request reconsideration in view of the amendments made herein.

The specification is amended on pages 57, 79, and 94 to correct minor typographical errors that Applicants have discovered. The specification is also amended on page 57 to correct a sentence fragment. Support for this amendment is provided at least at page 18, lines 16-17 of the specification, and verbatim support for the added language can be found in U.S. Provisional Application No. 60/005,408 ("the '408 application") at page 30, right-hand column. Note that the present patent application claims priority to the '408 application. No new matter is added.

If the Examiner should discover any more errors in the specification, Applicants will be happy to consider making any other corrective amendments. For the above reasons, Applicants respectfully request reconsideration and withdrawal of the objections to the specification.

Claims

Claims 45-62 are pending in the above-identified application. Claims 45-62 are rejected over prior art. Claims 45-46 are amended, and Claims 77-85 are added. Claims 1-44 and 63-76 were previously canceled. Claims 47-62 remain as previously-presented. Reconsideration is requested.

Rejections Under 35 U.S.C. § 102

Claims 45 and 54-62 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,292,668 (Miller et al.). The Examiner writes (in part):

Referring to claim 45, Miller has taught a microprocessor system, comprising:

- ...
f. a programmable memory interface (MIF) (Miller column 17, line 30 to column 18, line 15 and Figure 2);
- g. an external CMOS oscillator, operating in conjunction with a clock multiplier (Miller column 24, line 35 to column 26, line 35); ...

Additionally, in response to Applicants' prior arguments, the Examiner writes:

Applicants argue in essence on pages 5-7 and 8 "Miller et al. does not disclose 'an external CMOS oscillator, operating in conjunction with a clock multiplier' as recited ... Miller et al. shows an internal clock..." This has not been found persuasive. The claim language in question recites "an external CMOS oscillator", which does not indicate what the CMOS oscillator is external to. The language could simply mean that the CMOS oscillator is external to the multiplier. The language could also mean that the CMOS oscillator is external to the global memory unit, interrupt controller or programmable memory interface. Also, simply rearranging the location of the CMOS oscillator is not patentable subject matter (*In re Japiske*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950)).

Applicants respectfully traverse.

The standard for anticipation is set forth in M.P.E.P. § 2131 as follows:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicants can appreciate the Examiner’s broad interpretation of the term “external” in Claim 45. Because the Examiner appears to give no patentable weight to the term “external,” and because the term is not necessary to distinguish over the prior art, Claim 45 is amended herein to remove the term “external.”

As amended herein, Claim 45 recites (in part) “a CMOS oscillator, operating in conjunction with a clock multiplier.” Miller et al. does not disclose this element of Claim 45 because Miller et al. does not indicate that the oscillator 290, which is shown in FIG. 14 and described from column 24, line 35 to column 26, line 35, is a CMOS oscillator. This distinction over Miller et al. is important, as illustrated by MPEP § 2112(IV), which provides the following (in part):

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). “To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. **The mere fact that a certain thing may result from a given set of circumstances is not sufficient.**’ ” *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (Applicant’s emphasis in bold).

Thus, MPEP § 2112(IV) makes clear that a reference cannot anticipate a claim unless the limitations of that claim, which are not expressly disclosed, are inherently disclosed in the reference. In this case, the Examiner did not assert that “a CMOS oscillator” as claimed was inherently disclosed in Miller et al., and Applicants respectfully aver that the above-recited element is neither expressly or inherently disclosed by Miller et al.

Furthermore, Applicants also note that Claim 45 recites (in part) “a programmable memory interface (MIF).” In the rejection of Claim 45, Miller et al., col. 17, line 30 to col. 18, line 15 and Figure 2 are cited as disclosing the above-recited element of Claim 45. However, Applicants have reviewed this passage and Figure 2 and cannot determine what is being characterized as a “programmable memory interface” in Miller et al. Figure 2 shows a “memory 1” 214-1, a “memory 2” 216-1, and a “memory save unit” 222. However, it does not appear that any of these elements are a programmable interface and, therefore, cannot be interpreted as “a programmable memory interface” as claimed. Therefore, because Miller et al. does not disclose “a programmable memory interface,” Miller et al. does not anticipate Claim 45.

Because Miller et al. does not disclose all the limitations of Claim 45, Miller et al. does not anticipate Claim 45. Claims 54-62 depend, either directly or indirectly, from Claim 45 and are, therefore, distinguished from the cited prior art for at least the same reasons provided above with respect to Claim 45.

For the above reasons, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 102.

Rejections Under 35 U.S.C. § 103

Claims 46-47 are rejected under 35 U.S.C. § 103 as being unpatentable over Miller et al. in view of U.S. Patent No. 4,321,706 (Craft). Claims 48-50 are rejected under 35 U.S.C. § 103 as being unpatentable over Miller et al. in view of Official Notice. Claims 51-52 are rejected under 35 U.S.C. § 103 as being unpatentable over Miller et al. in view of U.S. Patent No.

5,070,451 (Moore et al.). Claim 53 is rejected under 35 U.S.C. § 103 as being unpatentable over Miller et al. in view of Moore et al. and further in view of Official Notice.

Applicants respectfully aver that none of the secondary references teach or suggest “a CMOS oscillator” or “a programmable memory interface” as recited by Claim 45. Claims 46-53 depend, either directly or indirectly, from Claim 45 and are, therefore, distinguished from the cited prior art for at least the reasons provided above with respect to Claim 45.

Finally, Applicants note that Claim 46 is amended herein. Support for this amendment is provided at least at page 162, lines 8-11 of Applicants’ specification.

For the above reasons, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

New Claims:

New Claims 77-85 are added. Support for the new claims is provided at least at the following locations:

Claims 77-80 – page 18, lines 6-8; page 162, lines 8-25; and FIG. 1;

Claims 81- 82 – page 10, line 20; page 79, lines 2-10;

Claims 83-85 – page 19, lines 17-20; page 138, lines 2-19.

For the foregoing reasons, Applicants believe that Claims 45-62 and 77-85 are in condition for allowance. Should the Examiner undertake any action other than allowance of Claims 45-62 and 77-85, or if the Examiner has any questions or suggestions for expediting the prosecution of this application, the Examiner is requested to contact Applicants’ attorney at (269) 279-8820.

Respectfully submitted,

January 21, 2010
Date: _____

/Larry E. Henneman, Jr./

Larry E. Henneman, Jr., Reg. No. 41,063
Attorney for Applicant(s)
Henneman & Associates, PLC
70 N. Main St.
Three Rivers, MI 49093

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January 21, 2010
Date: _____

/Larry E. Henneman, Jr./

Larry E. Henneman, Jr.